

ORDINANCE NO. 2012-6

**AN ORDINANCE OF THE VILLAGE OF KEY BISCAYNE,
FLORIDA, AMENDING CHAPTER 10 “FLOODS” IN ORDER TO
UPDATE THE FLOODPLAIN MANAGEMENT REGULATIONS;
PROVIDING FOR SEVERABILITY; PROVIDING FOR
CONFLICTS; AND PROVIDING FOR AN EFFECTIVE DATE.**

WHEREAS, the National Flood Insurance Program (the “NFIP”) offers flood insurance at more affordable rates than are generally available from private insurers; and

WHEREAS, in order for the residents of the Village of Key Biscayne (the “Village”) to be eligible for participation in the NFIP, the Village adopted floodplain management regulations on January 5, 1993; and

WHEREAS, the NFIP Community Rating System (the “CRS”) is a voluntary incentive program that recognizes and encourages community floodplain management activities that exceed the minimum NFIP requirements, allowing flood insurance premium rates to be discounted to reflect the reduced flood risk resulting from the community actions meeting the three goals of the CRS; and

WHEREAS, the Village has been in contact with the Federal Emergency Management Agency (“FEMA”) in order to determine how to improve the Village’s NFIP CRS rating, in order to provide additional savings to Village residents in their flood insurance; and

WHEREAS, Village staff has determined that certain changes that are coordinated with the latest edition of the Florida Building Code (FBC) may be implemented by the Village through the adoption of an amendment to the current floodplain management regulations ordinance; and

WHEREAS, the Village Council hereby finds and declares that adoption of this Ordinance is necessary, appropriate and advances the public interest.

NOW, THEREFORE, IT IS HEREBY ORDAINED BY THE VILLAGE COUNCIL OF THE VILLAGE OF KEY BISCAYNE, FLORIDA, AS FOLLOWS:¹

Section 1. The preceding “Whereas” clauses are ratified and incorporated as the legislative intent of this Ordinance.

Section 2. Village Code Amended. The Village Council hereby amends Article II “Flood Damage Prevention”, Division 1 “Generally,” as follows:

Division 1. Generally

Sec. 10-21. - Definitions.

~~In construing the provisions of this article, where the context will permit and no definition is provided in this section, the definitions provided in F.S. ch. 403, as may be amended from time to time, and in the rules and regulations promulgated thereunder, as may be amended from time to time, shall apply. The following words and phrases when used in this article shall have the meanings ascribed to them in this section.~~

Unless otherwise expressly stated, the following words and terms shall, for the purposes of this article, have the meanings shown in this section. Where terms are not defined in this article and are defined in the Florida Building Code, such terms shall have the meanings ascribed to them in the Florida Building Code. Where terms are not defined in this article or the Florida Building Code, such terms shall have ordinarily accepted meanings such as the context implies.

Accessory Structure means a nonhabitable garage, or other Building or Structure, which is on a the same lot or parcel subordinate to and not forming an integral part of the main or principal Building but pertaining to the use of the main Building of property as the principal Structure and the use of which is incidental to the use of the principal Structure.

Area of Special Flood Hazard means the land in the Floodplain within a community subject to a one percent or greater chance of Flooding in any given year. This comprises the entirety of the Village.

¹ Revisions following first reading of the Ordinance are shown as follows: additions are indicated by highlighted underlined text, and deletions are indicated by highlighted underlined and ~~strike through~~ text.

ASCE 24 means the standard titled *Flood Resistant Design and Construction* that is referenced by the Florida Building Code. ASCE 24 is developed and published by the American Society of Civil Engineers, Reston, VA.

Base Flood means a Flood having a one percent chance of being equaled or exceeded in any given year. The Base Flood is commonly referred to as the “100-year Flood” or the “1-percent-annual chance Flood.”

Base Flood Elevation means the elevation, including wave height, relative to the National Geodetic Vertical Datum (NGVD), North American Vertical Datum (NAVD) or other datum specified on the Flood Insurance Rate Map (FIRM), for which there is a one percent chance in any given year that Flood levels will equal or exceed it. The Base Flood Elevations are indicated on the Village Flood Insurance Rate Map (FIRM).

Basement means ~~that portion~~ any area of a Building having its Floor subgrade (below ground level) on all sides.

Breakaway Wall means ~~any type of wall, whether solid or lattice, and whether constructed of concrete, masonry, wood, metal, plastic, or any other suitable building material, which is not a part of the structural support of the Building and which is intended through design and construction to collapse under specific lateral loading forces without causing damage to the elevated portion of the Building or the supporting foundation system or any other Building to which such building materials might be carried by Flood waters~~ a wall that is not part of the structural support of the Building and is intended through its design and construction to collapse under specific lateral loading forces, without causing damage to the elevated portion of the Building or supporting foundation system.

Building means any Structure built for support, shelter or enclosure for any occupancy or storage shall have the meaning as defined in the current edition of the Florida Building Code.

Building Official means the officer or other designated authority charged with the administration and enforcement of the Florida Building Code, or a duly authorized representative.

Building Permit means an official document or certificate issued by the Village which authorizes performance of specific activities that are determined to be compliant with the Florida Building Code.

Coastal Construction Control Line means the line established by the State of Florida pursuant to Section 161.053, Florida Statutes, and recorded in the official records of the Village, which defines that portion of the beach-dune system subject to severe fluctuations based on a 100-year storm surge, storm waves or other predictable weather conditions.

Coastal High Hazard Area means an Area of Special Flood Hazard extending from off-shore to the inland limit of a primary frontal dune along an open coast and any other area subject to high velocity ~~waters~~ wave action caused by, but not limited to, ~~hurricane wave wash~~ storms or seismic sources. The area is designated on a FIRM as zone VI-30, VE or V.

Design Flood means the Flood associated with the greater of the following two areas:

1. Area with a Floodplain subject to a 1-percent or greater chance of Flooding in any year; or
2. Area designated as a Flood Hazard Area on the Village's ~~Flood Hazard Map~~ FIRM, or otherwise legally designated.

Design Flood Elevation means the elevation of the "Design Flood," including wave height, relative to the datum specified on the Village's ~~legally designated Flood Hazard Map~~ FIRM. In areas designated as Zone AO, the Design Flood Elevation shall be the elevation of the highest existing grade of the Building's perimeter plus the depth number (in feet) specified on the ~~Flood Hazard Map~~ FIRM. In areas designated as Zone AO where the depth number is not specified on the map, the depth number shall be taken as being equal to 2 feet.

Development or Development Activity means any manmade change to improved or unimproved real estate, including but not limited to Buildings or other Structures, mining, dredging, filling, grading, paving, excavating, drilling operations, or ~~permanent~~ storage of materials or equipment or any other land disturbing activity.

Development Permit means any ~~b~~Building ~~p~~Permit, zoning permit, subdivision approval, rezoning, recertification, special exception, Variance or any other official action of the Village having the effect of permitting the Development of land.

Elevated Building means a nonbasement Building built to have the Lowest Floor elevated above the ground level by means of ~~fill~~, solid foundation perimeter walls, pilings, columns (posts and piers) or shear walls.

Existing Building and Existing Structure means any Buildings and Structures for which the Start of Construction commenced before January 29, 1972

Flood or Flooding means a general and temporary condition of partial or complete inundation of normally dry land areas from:

- (1) The overflow of ~~streams, rivers, or other~~ inland or tidal water;
- (2) Abnormally high tidal water or rising coastal waters resulting from severe storms, hurricanes or tsunamis; or

- (3) The unusual and rapid accumulation or runoff of surface water from any source.

~~Flood Hazard Boundary Map~~ means an official map of the Village, issued prior to the FIRM by the Federal Emergency Management Agency, where the boundaries of the Areas of Special Flood Hazard Areas have been identified.

Flood Damage-Resistant Materials means any construction material capable of withstanding direct and prolonged contact with Flood waters without sustaining any damage that requires more than cosmetic repair.

Flood Insurance Rate Map (FIRM) means an the official map of a community on which the Federal Emergency Management Agency has delineated both the Areas of Special Flood Hazard Areas and the risk premium zones applicable to the community.

Flood Insurance Study means the official report provided by the Federal Emergency Management Agency. The report contains Flood FIRM profiles, as well as the water surface elevation of the Base Flood and supporting technical data.

Floodplain or Floodprone Hazard Area means any land area susceptible to being inundated by water from any source the greater of the following two areas:

(1) The area within a floodplain subject to a 1-percent or greater chance of flooding in any year.

(2) The area designated as a flood hazard area on the Village's flood hazard map, or otherwise legally designated.

Floodplain Administrator means the office or position designated and charged with the administration and enforcement of this article (may be referred to as the Floodplain Manager).

Floodplain Development Permit or Approval means an official document or certificate issued by the Village, or other evidence of approval or concurrence, which authorizes performance of specific Development activities that are located in Flood Hazard Areas and that are determined to be compliant with this article.

Floodproofing means any combination of structural and nonstructural additions, changes or adjustments (other than elevating) to Nonresidential Structures, which reduce or eliminate Flood damage to real estate or improved real property, water supply and sanitary sewage facilities, Structures, and their contents. Floodproofing includes, by way of illustration and not limitation, the following measures:

- (1) Anchorage to resist flotation and lateral movement.

~~(2) Installation of watertight doors, bulkheads and shutters, or similar methods of construction to protect against winds, wave action, or Flood waters.~~

~~(3) Reinforcement of walls to resist water pressures.~~

~~(4) Use of paints, membranes or mortars to reduce seepage of water through walls.~~

~~(5) Addition of mass or weight to Structures to resist flotation.~~

~~(6) Installation of pumps to lower water levels in Structures.~~

~~(7) Construction of water supply and wastewater treatment and disposal systems to prevent the entrance or infiltration of Flood waters.~~

~~(8) Pumping facilities or comparable practices for subsurface drainage systems for Buildings to relieve external foundation wall and Basement Flood pressures.~~

~~(9) Construction to resist rupture or collapse caused by water pressure or Flooding borne debris.~~

~~(10) Installation of valves or controls of sanitary and storm drains which will permit the drains to be closed to prevent backup of sewage and stormwaters into the Buildings or Structures. Gravity draining of Basements may be eliminated by mechanical devices.~~

~~(11) Location of all electrical equipment, circuits and installed electrical appliances in a manner which will assure they are not subject to Flooding and to provide protection from inundation by the Base Flood.~~

~~(12) Location of any Structure or storage facilities for chemicals, explosives, buoyant materials, flammable liquids or other toxic materials which could be hazardous to the public health, safety and welfare in a manner which will assure that the facilities are situated at elevations above the height associated with the regulatory protection elevation or are adequately Floodproofed to prevent flotation of storage containers, or damage to storage containers which could result in the escape of toxic materials into Flood waters.~~

~~*Floor* means the top surface of an enclosed area in a Building (including Basement), i.e., top of slab in concrete slab construction or top of wood flooring in wood frame construction. The term does not include the floor of a garage used solely for parking of vehicles.~~

~~*Functionally Dependent Structure or Facility Use* means a Structure-use which cannot be used for perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only such as a docking or port facilities necessary for the loading and unloading of cargo or passengers, shipbuilding, or ship repair, or seafood processing facilities. The term does not include longterm storage, manufacture, sales or service facilities.~~

Historic Building or Structure means any Structure that is determined eligible for the exception to the ~~f~~Flood ~~h~~Hazard ~~a~~Area requirements of the Florida Building Code, *Existing Building*, Chapter 11 Historic Buildings and:

- (1) Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- (2) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
- (3) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or
- (4) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
 - a. By an approved state program as determined by the Secretary of the Interior; or
 - b. Directly by the Secretary of the Interior in states without approved programs.

Letter of Map Change (LOMC) means an official determination issued by FEMA that amends ~~or revises~~ an effective Flood Insurance Rate Map or Flood Insurance Study. Letters of Map Change include:

Letter of Map Amendment (LOMA): An amendment based on technical data showing that a property was incorrectly included in a designated Special Flood Hazard Area. A LOMA amends the current effective Flood Insurance Rate Map and establishes that a specific property, portion of a property, or Structure is not located in a Special Flood Hazard Area.

Letter of Map Revision (LOMR): A revision based on technical data that may show changes to Flood zones, Flood elevations, Special Flood Hazard Area boundaries and floodway delineations, and other planimetric features.

Letter of Map Revision Based on Fill (LOMR-F): A determination that a Structure or parcel of land has been elevated by fill above the Base Flood Elevation is, therefore, no longer located within the Special Flood Hazard Area. In order to qualify for this determination, the fill must have been permitted and placed in accordance with the Village's floodplain management regulations.

Conditional Letter of Map Revision (CLOMR): A formal review and comment as to whether a proposed Flood protection project or other project complies with the minimum NFIP requirements for such projects with respect to delineation of Special Flood Hazard Areas. A CLOMR does not revise the effective Flood

Insurance Rate Map or Flood Insurance Study; upon submission and approval of certified as-built documentation, a Letter of Map Revision may be issued by FEMA to revise the effective FIRM.

Lowest Floor means the ~~Lowest~~ Lowest Floor of the lowest enclosed area of a Building or Structure (including Basement). An unfinished or Flood-resistant enclosure, usable solely for parking of vehicles, Building access or limited storage in an area other than a Basement area is not considered a Building's Lowest Floor; provided that such enclosure is not built so as to render the Structure in ~~violation~~ of the applicable nonelevation design requirements of this article and the latest edition of the Florida Building Code or ASCE 24.

Mangrove Stand means an assemblage of mangrove trees which consist of one or more of the following species: black mangrove (*Avicennia* ~~g~~Germinans); red mangrove (*Rhizophora* ~~m~~Mangle); white mangrove (*Languncularia* ~~r~~Racemosa) and buttonwood (*Conocarpus* ~~e~~Erecta).

~~*Manufactured Home (Trailer)* means a Structure, transportable in one or more sections, which is built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities. The term "Manufactured Home" does not include a Recreational Vehicle; however, Park Trailers, Travel Trailers, and similar transportable structures placed on a site for 180 consecutive days or longer shall be regulated as Manufactured Homes.~~

Market Value means the price at which a property will change hands between a willing buyer and a willing seller, neither party being under compulsion to buy or sell and both having reasonable knowledge of relevant facts. As used in this article, the term refers to the Market Value of Buildings and Structures, excluding the land and other improvements on the parcel. Market Value may be established by a qualified independent appraiser, actual cash value (replacement cost depreciated for age and quality of construction), or tax assessment value adjusted to approximate Market Value by a factor provided by the Property Appraiser.

Mean Sea Level means the average height of the sea for all stages of the tide. It is used as a reference for establishing various elevations within the Floodplain. For purposes of this article, the term is synonymous with National Geodetic Vertical Datum (NGVD) (as corrected in 1929) or North American Vertical Datum (NAVD) (as corrected in 1988), which means a vertical control used as a reference for establishing varying elevations within a Floodplain.

New Construction means any Structure for which the Start of Construction commenced on or after January ~~20, 1993~~ 29, 1972. The term also includes any subsequent improvements to the Structure.

~~*New Manufactured Home Park or New Manufactured Home Subdivision* means a Manufactured Home Park or Subdivision for which the construction of facilities for~~

~~servicing the lots on which the Manufactured Homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after January 20, 1993.~~

Nonresidential means any Building or Structure or portion thereof that is not classified Residential in accordance with the Florida Building Code, Building (Residential Group R or Institutional Group I) and ASCE 24.

Recreational Vehicle means a vehicle which is:

- (1) Built on a single chassis;
- (2) Four hundred square feet or less when measured at the largest horizontal projection;
- (3) Designed to be self-propelled or permanently towable by a light duty truck, as defined in 40 C.F.R. 86.082-2; and
- (4) Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel or seasonal use.

Residence or Residential means any lot, plot, parcel, tract, area, piece of land or Building used exclusively for family dwelling purposes or intended to be so used, including concomitant uses as specified in the prevailing land development regulations of the Village, and classified as Residential in accordance with the Florida Building Code, Building (Residential Group R or Institutional Group I) and ASCE 24.

Sand Dunes means naturally occurring accumulations of sand in ridges or mounds landward of the beach.

Special Flood Hazard Area means an area in the Floodplain subject to a 1 percent or greater chance of flooding in any given year. Special Flood Hazard Areas are shown on the Flood Insurance Rate Map as Zone A, AO, A1-A30, AE, A99, AH, V1-V30, VE and V. This comprises the entirety of the Village.

Start of Construction (for other than New Construction or Substantial Improvements under the Coastal Barrier Resources Act (P.L. 97-348)) includes Substantial Improvement, and means the date the Building ~~p~~Permit was issued, provided the actual Start of Construction, repair, reconstruction, rehabilitation, addition, placement or other improvement was within 180 days of the permit date. The actual ~~s~~Start of Construction means the first placement of permanent construction of a Building ~~(including a Manufactured Home)~~ on a site, such as the pouring of slabs or footings, installation of piles, construction of columns, or any work beyond the stage of excavation ~~or the placement of a Manufactured Home on a foundation.~~ Permanent construction does not include land preparation, such as clearing, grading and filling; ~~nor does it include~~ the installation of streets and/or walkways; ~~nor does it include~~ excavation for a Basement,

footings, piers or foundations or the erection of temporary forms; ~~nor does it include or~~ the installation on the property of Accessory Structures, such as garages or sheds not occupied as dwelling units or not part of the main Building. ~~For a Substantial Improvement, the actual Start of Construction means the first alteration of any wall, ceiling, floor, or other structural part of a Building, whether or not that alteration affects the external dimensions of the Building.~~

Structure means a walled and roofed Building, ~~including a gas or a liquid storage tank,~~ that is principally above ground, ~~a Manufactured Home, a gas or liquid storage tank, or other manmade facilities or infrastructures,~~ ~~including a gas or liquid storage tank.~~

Substantial Damage means damage of any origin sustained by a Structure whereby the cost of restoring the Structure to its before-damaged condition would equal or exceed 50 percent of the ~~m~~Market ~~v~~Value of the Structure before the damage occurred.

Substantial Improvement means any combination of additions, rehabilitation, repair, reconstruction, alteration, or other improvements to a ~~Building or~~ Structure, taking place during a one-year period in the "A" zones and a five-year period in the "V" zones, in which the cumulative cost equals or exceeds 50 percent of the ~~m~~Market ~~v~~Value of the Structure before the Start of Construction of the improvement. ~~The market value of the Structure shall be the appraised value of the Structure prior to the start of the initial work.~~

"Substantial Improvement" is considered to occur when the first alteration of any wall, ceiling, Floor, or other structural part of the Building commences, whether or not that alteration affects the external dimensions of the Structure. This term includes Structures which incur Substantial Damage regardless of actual work performed. The term does not include ~~either:~~ (1) ~~Any project for improvement of a Structure required to correct existing Violations of State or local health, sanitary or safety code specifications which have been identified by the local Code Enforcement Official and which are the minimum necessary to assure safe living conditions;~~

~~(2) Any alteration of a Historic Structure, provided that the alteration will not preclude the Structure's continued designation as a Historic Structure for which a Variance has been granted pursuant to this article; or~~

~~(3) Repairs for damage from any origin which are determined to be less than Substantial Damage.~~

Variance means a grant of relief from the requirements of this article ~~which permits construction in a manner otherwise prohibited by this article where specific enforcement would result in unnecessary hardship.~~

Violation means the failure of a Structure or other Development to be fully compliant with the provisions of this article. A Structure or other Development without the elevation certificate, Floodproofing certificate, other certifications, or other evidence of

compliance required of this article is considered to be in Violation until such certificate and documentation is submitted in a format satisfactory to the Building Official.

Sec. 10-22. - Statutory authority and legislative findings.

~~(a)~~ (1) The Legislature of the State of Florida has in F.S. chs. 166 and 163 granted to local governmental units, including the Village, the power, authority and responsibility to adopt regulations designed to promote the public health, safety and general welfare, as well as to adopt Development regulations controlling the use of land.

~~(b)~~ (2) The Flood ~~h~~Hazard ~~a~~Areas of the Village are subject to periodic inundation which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for Flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety and general welfare.

~~(c)~~ (3) The Flood losses described in subsection ~~(b)~~ (2) are caused by the cumulative effect of obstructions in Floodplains causing increases in Flood heights and velocities, and by the occupancy in Flood ~~h~~Hazard ~~a~~Areas by uses vulnerable to Floods or hazardous to other lands which are inadequately elevated, Floodproofed, or otherwise unprotected from Flood damages.

Sec. 10-23. - Intent and purpose.

It is the purpose of this article to promote the public health, safety and general welfare and to minimize public and private losses due to Flood conditions in specific areas by provisions designed to:

(1) Restrict or prohibit uses which are dangerous to health, safety and property due to water or erosion hazards, or which result in damaging increases in erosion or in Flood heights or velocities;

(2) Require that uses vulnerable to Floods, including facilities which serve such uses, be protected against Flood damage at the time of initial construction or Substantial Improvement;

(3) Control the alteration of natural Floodplains, ~~stream channels~~, and natural protective barriers which are involved in the accommodation of Flood waters;

(4) Control filling, grading, dredging, paving, excavation and other Development which may increase erosion or Flood damage; and

(5) Prevent or regulate the construction of Flood barriers which will unnaturally divert Flood waters or which may increase Flood hazards to other lands.

Sec. 10-24. - Objectives.

The objectives of this article are to:

- (1) Protect human life and health;
- (2) Minimize expenditure of public money for costly Flood control projects;
- (3) Minimize the need for rescue and relief efforts associated with Flooding and generally undertaken at the expense of the general public;
- (4) Minimize prolonged business interruptions;
- (5) Minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in Floodplains;
- (6) Help maintain a stable tax base by providing for the sound use and ~~d~~Development of Floodprone Areas in such a manner as to minimize Flood-blight areas;
- (7) Ensure that potential home buyers are notified that property is in a Flood area; and
- (8) Comply with the requirements of the National Flood Insurance Program for community participation as set forth in the Title 44 Code of Federal Regulations, Section 59.22, so as to ensure the availability of Flood insurance for residents and property owners.

Sec. 10-25. - Lands to which this article applies.

This article shall apply to all areas ~~of~~ within the Village.

Sec. 10-26. - Basis for establishing the Areas of Special Flood Hazard Areas.

The Areas of Special Flood Hazard Areas identified by the Federal Emergency Management Agency in its Flood Insurance Study and Flood Insurance Rate Map for Miami-Dade County, Florida, dated January 20, 1993 September 11, 2009, with accompanying maps and other supporting data, and any amendments and revisions thereto, are adopted by reference and declared to be a part of this article. All lands within the Village are within an Area of Special Flood Hazard Area.

Sec. 10-27. - Development Permits required.

In addition to compliance with all other requirements of the Village Code of Ordinances and Chapter 30 (the "Zoning Code"), ~~A~~ a Floodplain Development Permit shall be required in conformance with the provision of this article prior to the commencement of any Development Activities.

Sec. 10-28. - Compliance required.

No Development Activity shall occur without full compliance with the terms of this article and other applicable regulations.

Sec. 10-29. - Abrogation and greater restrictions.

This article is not intended to repeal, abrogate, or impair any existing easements, covenants or deed restrictions. ~~However, w~~Where this article and another regulation easement, covenant or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail. This article supersedes any article in effect for management of Development in Special Flood Hazard Areas. However, it is not intended to repeal or abrogate any existing ordinances including land development regulations, zoning ordinances, stormwater management regulations, and the Florida Building Code. Where there is a conflict between a general requirement and a specific requirement, the specific requirement shall be applicable, provided that the Florida Building Code, as amended through the local technical amendments of Article III "Florida Building Code" of Chapter 8 "Building Code" of the Miami-Dade County Code of Ordinances, shall be applicable in the event of a conflict with any requirement of this article.

Sec. 10-30. - Interpretation.

In the interpretation and application of this article, all provisions shall be:

- (1) Considered as minimum requirements;
- (2) Liberally construed in favor of the governing body; and
- (3) Deemed neither to limit nor repeal any other powers granted under State statutes.

Sec. 10-31 - Coordination with the Florida Building Code.

Pursuant to the requirements established in Section 553.73, Florida Statutes, that local governments administer and enforce the Florida Building Code, the Village Council does hereby acknowledge that the Florida Building Code, as amended through the local technical amendments of Article III "Florida Building Code" of Chapter 8 "Building Code" of the Miami-Dade County Code of Ordinances, contains certain provisions that apply to the design and construction of Buildings and Structures in Flood Hazard Areas. Therefore, this article is intended to be administered and enforced in conjunction with the Florida Building Code as amended through the local technical amendments of Article III "Florida Building Code" of Chapter 8 "Building Code" of the Miami-Dade County Code of Ordinances. Where section numbers of the Florida Building Code are cited, the section numbers refer to the latest edition of the Florida Building Code, as amended. If cited section numbers are changed in subsequent editions of the Florida Building Code, then the section numbers shall refer to comparable sections. Where cited, ASCE 24 refers to the edition of the standard that is referenced by the Florida Building Code.

Sec. 10-312. - Warning and disclaimer of liability.

The degree of Flood protection required by this article and the Florida Building Code, as amended, is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger Floods can and will occur on rare occasions. Flood heights may be increased by manmade or natural causes. ~~This article does not imply that land outside the Areas of Special Flood Hazard or uses permitted within such areas will be free from Flooding or Flood damages.~~ This article shall not create liability on the part of the Village or by any officer or employee thereof for any Flood damages that result from reliance on this article or any administrative decision lawfully made thereunder.

Sec. 10-323. - Penalties for Violation of aArticle.

Violation of the provisions of this article or failure to comply with any of its requirements, including Violation of conditions and safeguards established in connection with grants of a Variance, shall constitute a misdemeanor. Any person who violates this article or fails to comply with any of its requirements shall, upon conviction thereof, be fined not more than \$500.00 or imprisoned for not more than 60 days, or both, and in addition, shall pay all costs and expenses involved in the case. Each day such Violation continues shall be considered a separate offense. Nothing contained in this section shall prevent the Village from taking such other lawful actions as are necessary to prevent or remedy any Violation.

Secs. 10-334- 40. Reserved.

Section 3. Village Code Amended. The Village Council hereby amends Article II "Flood Damage Prevention," Division 2 "Administration" of Chapter 10 "Floods" as follows:

Division 2. Administration

Sec. 10-41. - Designation of ~~Local~~ Floodplain Administrator.

The ~~Village Manager~~ Building Official or his or her designee is hereby appointed as the Floodplain Administrator to administer and implement the provisions of this article. Whenever the term "Village Manager Building Official" is used in this article, it is intended to include any designee. The Floodplain Administrator may delegate performance of certain duties to other employees.

Sec. 10-42. - Permit procedures for Building construction.

Application for a Development Permit for constructing or Substantially Improving a Structure shall be made to the ~~Village Manager~~ Building Official on forms furnished by

the ~~Village Manager~~ Building Official's office prior to any Development Activities, and may include, but not be limited to, the following plans in duplicate drawn to scale showing the nature, location, dimensions, and elevations of the area in question, existing or proposed Structures, earthen fill, storage of materials or equipment, drainage facilities, and the location of the foregoing. Specifically, the following information is required:

(1) Application stage.

- a. Elevation in relation to Mean Sea Level of the proposed Lowest Floor, or the lowest surface of any heating or air conditioning duct work installed below the Lowest Floor, or the lowest horizontal supporting member in a Coastal High Hazard Area (V-zone), of all proposed ~~Buildings or~~ New Construction and Substantial Improvements;
- b. Elevation in relation to Mean Sea Level to which any proposed Building or Substantial Improvement, not located in a Coastal High Hazard Area (V-zone), will be Floodproofed;
- c. Signed, sealed certificate, separate from the submitted plans, from a registered professional engineer or architect that the Floodproofed Building will meet the Floodproofing criteria in this article;
- d. Signed, sealed certificate, separate from the submitted plans, from a registered professional engineer or architect that a new or Substantially Improved Building located in the Coastal High Hazard Area (V-zone) will meet the construction standards contained in section 10-63;
- ~~e. Description of the extent to which any watercourse, swamp, marsh, lake or pond will be altered, relocated or created as a result of proposed construction;~~
- ~~f.~~ e. Description of the type, extent and depth of proposed fill and the elevation in relation to Mean Sea Level of the top surface of the fill;
- ~~g.~~ f. Description of the type, extent and depth of proposed excavation in relation to Mean Sea Level;
- ~~h.~~ g. Plot plan, drawn to scale, illustrating the locations of all proposed construction, fill, excavating, and other aspects of the Development;
- ~~i.~~ h. Copy of the proposed stormwater management report and Floodplain study, if any, complete with technical supporting data;
- ~~j.~~ i. Grading and drainage plans; and
- ~~k.~~ j. Upon request, stormwater management plans.

k. When additional hydrologic, hydraulic or other engineering data, studies, and additional analyses are submitted to support an application, the applicant has the right to seek a Letter of Map Change from FEMA to change the Base Flood Elevations, change floodway boundaries, or change boundaries of Flood Hazard Areas shown on FIRMs, and to submit such data to FEMA for such purposes. The analyses shall be prepared by a Florida licensed engineer in a format required by FEMA. Submittal requirements and processing fees shall be the responsibility of the applicant.

(2) Construction stage. ~~Floor elevation or Floodproofing certifications.~~

a. Upon placement of the Lowest Floor, or, in the Coastal High Hazard Areas (V-zones), upon placement of the horizontal structural members of the Lowest Floor, whichever is applicable, it shall be the duty of the permit holder to submit to the ~~Village Manager~~ Building Official a certification of the elevation of the top of the Lowest Floor, or the lowest surface of any heating or air conditioning duct work installed below the Lowest Floor, or the elevation of the lowest portion of the horizontal structural members of the Lowest Floor, whichever is applicable, as built, in relation to Mean Sea Level. Such certification shall be made on a FEMA elevation certificate form 81-31, or a form containing at least the same information, and shall be prepared by or under the direct supervision of a registered land surveyor or professional engineer.

b. When Floodproofing is utilized for a Building, the permit holder shall submit to the ~~Village Manager~~ Building Official a Floodproofing certification at the time the exterior walls are completed to the required Floodproofed elevation. Such certification shall be prepared by or under the direct supervision of a professional engineer or architect and certified by the professional engineer or architect, utilizing the FEMA Floodproofing certificate form 81-65, ~~or the equivalent,~~ along with the design, operation, and maintenance plans.

c. Any additional work undertaken prior to submission and approval of the certification shall be at the permit holder's risk.

d. The ~~Village Manager~~ Building Official shall review the Floor elevation survey data or Floodproofing certification submitted. Deficiencies detected by such review shall be corrected by the permit holder immediately and prior to further progressive work being permitted to proceed.

e. Failure to submit the elevation or Floodproofing certifications or failure to make the corrections required by this article shall be cause to issue a stop work order for the project or if completed, a revocation of the "Certificate of Completion or Occupancy."

f. Prior to issuance of a certificate of occupancy for New Construction or Substantial Improvement in the Coastal High Hazard Area (V-zones), the permit

holder shall submit a signed, sealed certificate, separate from the submitted plans, from a registered professional engineer or architect certifying that the Building has been constructed in compliance with the standards contained in section 10-63. A certificate of occupancy will not be issued until this certification has been received and accepted by the ~~Village Manager~~ Building Official.

Sec. 10-43. - Duties and responsibilities of the ~~Local~~ Floodplain Administrator.

The Building Official, as the Floodplain Administrator, is authorized and directed to administer and enforce the provisions of this article. The Building Official shall have the authority to render interpretations of this article consistent with the intent and purpose of this article and may establish policies and procedures in order to clarify the application of its provisions. Such interpretations, policies, and procedures shall not have the effect of waiving requirements specifically provided in this article without the granting of a Variance pursuant to Section 10-44 of this article.

Duties of the ~~Village Manager~~ Building Official, as the ~~Local~~ Floodplain Administrator of this article, shall include, but not be limited to:

(1) Review all applications for Development Permits to assure that the permit requirements of this article have been satisfied.

(2) ~~Advise permittees that~~ Require copies of additional federal ~~Federal, or State, Miami-Dade County Permitting, Environment and Regulatory Affairs department, and South Florida Water Management District permits may be required, and if specific federal or State permit requirements are known, require that copies of such permits be provided to~~ be submitted and maintained on file with the Development Permit.

(3) Verify and record the actual elevation (in relation to Mean Sea Level) of the Lowest Floor of all new or Substantially Improved Buildings, in accordance with section 10-62(1).

(4) Verify and record the actual elevation (in relation to Mean Sea Level) to which the new or Substantially Improved Buildings have been elevated or Floodproofed, in accordance with section 10-62(2).

(5) In Coastal High Hazard Areas, requiring permittees to provide certification from a registered professional engineer or architect that the Building is designed and securely anchored to adequately anchored pilings or columns in order to withstand velocity waters and hurricane wave wash, in compliance with section 10-63(2), (3) and (4).

(6) In Coastal High Hazard Areas, the ~~Village Manager~~ Building Official shall review plans for adequacy of Breakaway Walls in accordance with section 10-63(8), (9) and (10).

(7) When Floodproofing is utilized for a particular Building, the ~~Village Manager~~ Building Official shall obtain certification from a registered professional engineer or architect, in accordance with this article, along with the design, operation, and maintenance plans.

(8) The office of the ~~Village Manager~~ Building Official shall serve as the official map repository for FEMA Flood Insurance Rate Maps, and Flood Insurance Study (FIS) maps ~~Flood Boundary and Floodway Maps (if applicable), and Flood Hazard Boundary Maps~~ for the community, together with Letters of Map Amendment (LOMAs) and Letters of Map Revision (LOMRs). At least one copy of all current and superseded maps, LOMA's and LOMR's shall be maintained for public use and viewing.

(9) All records pertaining to the provisions of this article shall be maintained in the office of the ~~Village Manager~~ Building Official and shall be ~~open~~ available for public inspection. Copies of all Floodplain Development Permits and summary supporting documentation shall be filed by geographic area for ease of coordinating all Floodplain Development Activities.

Sec. 10-44. - Variances.

~~(a)~~ (1) Pursuant to Section 553.73(5), Florida Statutes, ~~the Village Council shall hear and decide requests for Variances from the strict application of the requirements of this article~~ and flood damage resistant construction requirements of the Florida Building Code.

~~(b)~~ (2) Any person aggrieved by the decision of the Village Council may appeal such decision to the Circuit Court, as provided in the Florida Rules of Appellate Procedure.

~~(c)~~ (3) Variances under this article may be issued for the repair, improvement or rehabilitation of Historic Structures upon a determination that the proposed repair or rehabilitation will not preclude the Structure's continued designation as a Historic Structure and the Variance is the minimum necessary deviation from the requirements of this article to preserve the historic character and design of the Structure.

~~(d)~~ (4) In passing upon requests for a Variance under this article, the Village Council shall consider all technical evaluations, all relevant factors, all other applicable provisions of the Florida Building Code, all standards specified in other sections of this article, and:

~~(1)~~ (a) The danger that materials may be swept onto other lands to the injury of others;

~~(2)~~ (b) The danger to life and property due to Flooding or erosion damage;

~~(3)~~ (c) The susceptibility of the proposed facility and its contents to Flood damage and the effect of such damage on the individual owner;

~~(4)~~ (d) The importance of the services provided by the proposed facility to the community;

~~(5)~~ (e) The necessity of the facility to a waterfront location, in the case of a Functionally Dependent Facility Use;

~~(6)~~ (f) The availability of alternative locations, not subject to Flooding or erosion damage, for the proposed use;

~~(7)~~ (g) The compatibility of the proposed use with existing and anticipated Development;

~~(8)~~ (h) The relationship of the proposed use to the comprehensive plan and Floodplain management program for that area;

~~(9)~~ (i) The safety of access to the property in times of Flood for ordinary and emergency vehicles;

~~(10)~~ (j) The expected heights, velocity, duration, rate of rise and sediment transport of the Flood waters and the effects of wave action, if applicable, expected at the site; and

~~(11)~~ (k) The costs of providing governmental services during and after Flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical and water systems, and streets and bridges.

~~(e)~~ (5) Upon consideration of the factors listed in subsection (d) of this section, and the purposes of this article, the Village Council may attach such conditions to the granting of Variances as it deems necessary to further the purposes of this article.

~~(f)~~ (6) *Conditions for Variances under this article:*

~~(1)~~ (a) Variances under this article shall only be issued upon a determination that the Variance is the minimum necessary, considering the Flood hazard, to afford relief; ~~and in the instance of a Historical Building, a determination that the Variance is the minimum necessary so as not to destroy the historic character and design of the Building.~~

~~(2)~~ (b) Variances under this article shall only be issued upon:

a. i. A showing of good and sufficient cause;

b. ii. A determination that failure to grant the Variance would result in exceptional hardship; and

e. ~~iii.~~ A determination that the granting of a Variance will not result in increased Flood heights, additional threats to public safety, extraordinary public expense, create nuisance, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.

~~(3)~~ (c) Any applicant to whom a Variance is granted shall be given written notice specifying the difference between the Base Flood Elevation and the Lowest Floor elevation ~~to which the Building is to be built~~ and stating that the cost of Flood insurance will be commensurate with the increased risk resulting from the ~~reduced~~ Lowest Floor being located below Base Flood e~~Elevation.~~

~~(4)~~ (d) The ~~Village Manager~~ Building Official shall maintain the records of all Variances, both granted and denied, and report any Variances to the Federal Emergency Management Agency upon request.

Sec. 10-45. - Administrative appeals.

(a~~1~~) The Village Council shall hear and decide appeals when it is alleged there is an error in any requirement, decision or determination made by the ~~Village Manager~~ Building Official in the administration of this article.

(b~~2~~) Any person aggrieved by the decision of the Village Council may appeal such decision to the Circuit Court, as provided in the Florida Rules of Appellate Procedure.

(e~~3~~) The ~~Village Manager~~ Building Official shall maintain the records of all appeal actions under this section.

Secs. 10-46—10-60. - Reserved.

Section 4. Village Code Amended. The Village Council hereby amends Article II “Flood Damage Prevention,” Division 3 “Flood Hazard Reduction” of Chapter 10 “Floods” as follows:

Division 3. Flood Hazard Reduction

Sec. 10-61. - General standards.

In all Areas of Special Flood Hazard Areas the following provisions are required:

(1) New Construction and Substantial Improvements shall be constructed in accordance with the Flood provisions of the latest edition of the Florida Building Code, as amended, that governs the Flood Damage Resistant design of facilities.

(2) New Construction ~~or~~ and Substantial Improvements shall be anchored to prevent flotation, collapse, ~~or~~ and lateral movement of the Structure.

~~(2) Manufactured Homes shall be anchored to prevent flotation, collapse or lateral movement. Methods of anchoring may include, but are not limited to, use of over the top or frame ties to ground anchors. This standard shall be in addition to and consistent with applicable State requirements for resisting wind forces.~~

(3) New Construction and Substantial Improvements shall be constructed with materials and utility equipment resistant to Flood damage.

(4) New Construction ~~or~~ and Substantial Improvements shall be constructed by methods and practices that minimize or eliminate Flood damage. The top of the lowest habitable floor must be at or above B.F.E. for that property and the underside of the floor construction must consist of an open crawlspace with ~~f~~Flood openings to equalize hydrostatic forces being provided in all supporting walls.

(5) Electrical, communication, heating, ventilation, plumbing, air conditioning equipment, including duct work, and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of Flooding.

(6) New and replacement water supply systems shall be designed to minimize or eliminate infiltration of Flood waters into the system.

(7) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of Flood waters into the systems and discharges from the systems into Flood waters.

(8) Onsite waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during Flooding.

(9) Any alteration, repair, reconstruction or improvement to a Building which is in compliance with the provisions of this article shall meet the requirements of New Construction as contained in this article.

(10) Adequate drainage paths shall be provided around Structures to guide stormwater runoff away from them.

(11) Any improvements made to new or Substantially Improved Buildings for which permits were issued on or after ~~December 31, 1974~~ September 29, 1972, shall conform to the requirements for New Construction under this article.

(12) ~~Functionally Dependent Structures and any improvements to~~ Historic Buildings may be exempted from one or all of the standards contained in ~~this article~~ Sections 10-61 through 10-63, provided the request for an exemption is approved as a Variance, as

provided in this article, and, with regard to Historic Buildings, the proposed improvements are certified by a certified local government or the State Historic Preservation Officer as maintaining the historical integrity and classification of the Building.

(13) Any improvements shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize or eliminate Flood damage.

(14) Underground tanks shall be anchored to prevent flotation, collapse or lateral movement resulting from hydrodynamic and hydrostatic loads including the effects of buoyancy assuming the tank is empty.

(15) Above-ground tanks.

(a) Above-ground tanks, elevated. Above-ground tanks shall be attached to and elevated to or above the Base Flood Elevation on a supporting Structure that is designed to prevent flotation, collapse or lateral movement during conditions of the Base Flood Elevation. Tank-supporting Structures shall meet the foundation requirements of the applicable Flood zone.

(b) Above-ground tanks, which are not elevated in accordance with subsection (15)(a), shall be permitted in areas other than coastal high hazard areas, provided that such tanks are anchored or otherwise designed and constructed to prevent flotation, collapse or lateral movement resulting from hydrodynamic and hydrostatic loads during conditions of the Base Flood, including the effects of buoyancy assuming the tank is empty, and assuming the effects of Flood-borne debris.

(16) Tank inlets, fill openings, outlets and vents shall be at or above the Base Flood Elevation or fitted with covers designed to prevent the inflow of Floodwater or outflow of the contents of the tanks during conditions of the Base Flood; and anchored to prevent lateral movement resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy, during conditions of the Base Flood.

(17) Subdivisions proposals and other proposed new Development.

(a) All subdivision proposals and other proposed new Developments shall be consistent with the need to minimize Flood damage and will be reasonably safe from flooding.

(b) All subdivision proposals and other proposed new Developments shall have adequate drainage provided to reduce exposure to Flood hazards.

(c) For subdivision proposals and other proposed new Developments within A-Zones, Base Flood Elevation and Flood Hazard Area mapping shall be provided

in accordance with this article for subdivision proposals and other proposed Development which is greater than the lesser of 50 lots or five acres.

(d) The Base Flood boundary and/or V-zone boundary if applicable, and the applicable Base Flood Elevation for the Building site on each lot, shall be clearly marked on all recorded subdivision plats, be they for Residential or Nonresidential use.

Sec. 10-62. - Specific standards for A-zone Flood Hazard Areas.

In all ~~Areas of~~ Special Flood Hazard ~~Areas~~, areas denoted with an "A" prefix on the FIRM where Base Flood Elevation data have been provided, as set forth in section 10-26, the following provisions are required, in addition to the general standards of section 10-61.

(1) *Residential ~~construction~~ Structures.* New Construction ~~or~~ and Substantial Improvement of any Residential Building ~~or Manufactured Home~~ shall have the Lowest Floor, together with all mechanical and electrical equipment, including duct work, and including any Basement, elevated no lower than the Base Flood Elevation. Should solid foundation perimeter walls be used to elevate a Structure, openings sufficient to facilitate the ~~unimpeded movements of Flood waters~~ automatic equalization of Flood hydrostatic forces on exterior walls shall be provided in accordance with standards of section 10-62(3). The Floor of an attached garage may be placed below the Base Flood Elevation, provided the openings required in section 10-62(3) are installed and all mechanical and electrical equipment, including laundry facilities and food freezers, is elevated above the Base Flood Elevation.

(2) *Nonresidential ~~construction~~ Structures.* New Construction ~~or~~ and Substantial Improvement of any ~~commercial, industrial or nonresidential~~ Building shall have the Lowest Floor, together with all mechanical and electrical equipment, including duct work, and including any Basement, elevated no lower than the Base Flood Elevation. The Floor of an attached garage or loading dock may be placed below the Base Flood Elevation, provided the openings required in section 10-62(3) are installed and all mechanical and electrical equipment is elevated above the Base Flood Elevation. Buildings may be Floodproofed to an elevation one foot above the required Base Flood Elevation noted in this section, in lieu of being elevated, provided that all areas of the Building below the required elevation are watertight with walls substantially impermeable to the passage of water, and use structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effect of buoyancy. A registered professional engineer or architect shall certify that the standards of this subsection are satisfied. Such certification shall be provided to the official as set forth in section 10-43(4) along with the design, operation, and maintenance plans.

(3) *Elevated Buildings.* New Construction ~~or~~ and Substantial Improvements of ~~Elevated Buildings~~ that include fully enclosed areas formed by foundation and other exterior walls below the ~~Base Flood Elevation~~ Lowest Floor shall be designed to preclude finished

living space and shall be designed to allow for the entry and exit of Flood waters to automatically equalize hydrostatic Flood forces on exterior walls.

a. Designs for complying with this requirement must either be certified by a professional engineer or architect or meet or exceed the following minimum criteria:

1. Provide a minimum of two openings (in walls or doors) having a total net area of not less than one square inch for every square foot of enclosed area subject to Flooding;

2. The bottom of all openings shall be no higher than one foot above grade; and

3. Openings may be equipped with screens, louvers, valves or other coverings or devices, provided they permit the automatic flow of Flood waters in both directions.

b. Access to the enclosed area shall be the minimum necessary to allow for parking of vehicles (garage door) or limited storage of maintenance equipment used in connection with the premises (standard exterior door) or entry to the living area (stairway or elevator).

c. The interior portion of such enclosed areas shall not be ~~partitioned or finished~~ finished or partitioned into separate rooms.

d. Use of such enclosed areas shall be solely limited to parking of vehicles, storage and Building access.

(4) ~~Manufactured Homes and Recreational Vehicles.~~

~~a. All Manufactured Homes placed within the Village must meet all the requirements for New Residential Construction contained in this article, including installation on permanent foundation systems, elevation and anchoring requirements. At a minimum, a permanent foundation system shall constitute reinforced piers placed on poured footings, or other foundation elements of equivalent strength. Any additions to Manufactured Homes subject to provisions of this subsection shall also be considered New Construction and must therefore comply with the requirements of this article, including elevation requirements.~~

~~b. All Recreational Vehicles placed on sites within Special Flood Hazard Areas for fewer than 180 consecutive days~~ must either:

1. ~~a. Be fully licensed and ready for highway use~~ Be on the site for fewer than 180 consecutive days; or

~~2. b. The Recreational Vehicle must meet all the requirements for New Construction, including anchoring and elevation requirements of this article. Be fully licensed and ready for highway use.~~

A Recreational Vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices and has no permanently attached Structures.

(5) *Accessory Structures.* Accessory Structures may be exempted from the elevation requirements of section 10-62, provided the following criteria are met:

- a. The Structure is ~~not used for human habitation, including occupancy as a workplace, for extended periods of time~~ only for parking of vehicles or storage;
- b. The Structure is designed and constructed so as to have a low potential for damage during a Base Flood (e.g. ~~using constructed of Flood-Damage rResistant materials as provided in FEMA Technical Bulletin No. 88-2, and any subsequent revisions thereto~~);
- c. The Structure shall be located so as to offer the minimum resistance to the flow of Flood waters (~~e.g., located parallel to a stream, perpendicular to the ocean~~);
- d. The Structure is firmly anchored ~~to prevent flotation~~, per section 10-61(2); and
- e. All electrical service, heating and cooling equipment, and other mechanical or electrical equipment is either elevated above the Base Flood Elevation or is Floodproofed. One ground-fault interrupt circuit may be installed below the Base Flood Elevation, and all construction below that elevation shall be of Flood-Damage rResistant materials.

~~(6) Temporary Structures.~~ Certain types of Structures (e.g., fruit stands, construction site offices) may be sited temporarily on property without having to comply with the general standards of section 10-61 or the elevation standards of section 10-62, provided the following criteria are met:

- a. ~~The Structure is mobile, or can be made so, and is capable of being removed from the site with a minimum of 36 hours' warning.~~
- b. ~~The Structure does not have an approval to remain on the property for more than 180 days.~~
- c. ~~The applicant submits a plan for the removal of the Structure, containing the following documentation:~~
 1. ~~The name, address, phone number and emergency contact point of the individual responsible for the removal of the Structure.~~

~~2. The time at which the Structure will be removed (i.e., a minimum of 72 hours in advance of the projected landfall of a hurricane).~~

~~3. A copy of a contract or other suitable instrument with a trucking company to ensure the availability of removal of the Structure when needed, together with the name, address and emergency phone number of the responsible trucking company agent.~~

~~4. Designation, accompanied by documentation (e.g., signed consent of the property owner), of a site outside the Village to which the Structure will be moved.~~

~~5. Signatures of the applicant, property owner on which the Structure will be placed, and owner of the Structure, agreeing to abide by the terms of the removal plan.~~

~~A temporary Development Permit shall be issued when a temporary Structure is approved, and the expiration date shall be clearly marked on the face of the permit. The original copy of the removal plan shall be attached to the permit, and the documentation shall be kept on file in the Village Manager's office. A copy of the permit, together with the removal plan, shall be provided by the owner to the local emergency management coordinator~~

(6) All New Construction and Substantial Improvements located seaward of the Florida Coastal Construction Control Line shall also meet the more restrictive elevation requirements established by the Florida Department of Environmental Protection and nonelevation design requirements of this article.

(7) Above ground tanks, which are not elevated, shall be permitted provided that such tanks are anchored or otherwise designed and constructed to prevent flotation, collapse or lateral movement resulting from hydrodynamic and hydrostatic loads during conditions of the Base Flood, including the effects of buoyancy assuming the tank is empty and the effects of Flood borne debris.

Sec. 10-63. - Standards for Coastal High Hazard Areas (V-zones).

Located within the Areas of Special Flood Hazard Areas are areas designated as Coastal High Hazard Areas, which are denoted with a "V" prefix on the FIRM. These areas, called "velocity zones," have special Flood hazards associated with wave action; therefore, the following provisions, in addition to those contained in sections 10-61 and 10-62, shall apply:

(1) *Building location.* All Buildings shall be located landward of the reach of Mean High Tide and in conformance with the requirements of the State of Florida Coastal Zone Protection Act of 1985, whichever is more restrictive.

(2) *Elevated Buildings.* All Buildings shall be elevated so that the bottom of the lowest ~~supporting~~ horizontal structural member of the Lowest Floor (excluding pilings or columns), together with all mechanical and electrical equipment, including duct work, is located no lower than the Base Flood Elevation, with all space below the lowest ~~supporting~~ horizontal structural member open so as not to impede the flow of water. Open wood latticework or ~~decorative-insect~~ screening may be permitted for aesthetic purposes only and must be designed to wash away in the event of abnormal wave action and in accordance with subsection (8) of this section.

(3) *Piling ~~or column~~ foundations.* All ~~Buildings or~~ Structures shall be securely anchored on pilings ~~or columns~~ extending vertically below grade a sufficient depth below the zone of potential erosion and scour and securely anchored to subsoil strata.

(4) *Anchoring and connection requirements.* All pile ~~and column~~ foundations and Structures attached thereto shall be anchored to resist flotation, collapse and lateral movement due to the effect of wind and water loads acting simultaneously on all Building components. Proper structural anchoring shall include a complete system of adequately sized galvanized metal connectors securely fastening the various structural subsystems of the Building together, from the roofing and ridge down to the pilings, to resist wind damage. Water loading values shall equal or exceed the Base Flood. Wind loading values shall be in accordance with the ~~South~~ Florida Building Code, and any subsequent revisions thereto.

(5) *Certification of design.* At the time of application for a permit, a registered professional engineer or architect shall certify that the design, specifications and plans for construction are in compliance with the provisions contained in section 10-63(2), (3) and (4), and shall cite the parameters and variables used in developing the design, including wind loading values, water loading values, depth of potential erosion and scour zone, and subsoil strata characteristics.

(6) *Ban on use of structural fill.* There shall be no fill used as structural support. Limited noncompacted fill may be used around the perimeter of a Building for landscaping/aesthetic purposes, provided the fill will wash out from storm surge (thereby rendering the Building free of obstruction) prior to generating excessive loading forces, ramping effects, or wave deflection. The ~~Village Manager~~ Building Official shall approve design plans for landscaping/aesthetic fill only after the applicant has provided an analysis by an engineer, architect, and/or soil scientist which demonstrates that the following factors have been fully considered and demonstrated by an engineering analysis by a certified professional:

- a. Particle composition of fill material does not have a tendency for excessive natural compaction;
- b. Volume and distribution of fill will not cause wave defection to adjacent properties; and

c. Slope of fill will not cause wave run-up or ramping.

(7) *Protection of Sand Dunes and Mangrove Stands.* There shall be no alteration of Sand Dunes or Mangrove Stands ~~which would increase potential Flood damage.~~

(8) *Enclosures below ~~Base Flood Elevation~~ Lowest Floor.* ~~L-Open~~ Open wood lattice work or ~~decorative-insect~~ screening shall be allowed below the ~~Base Flood Elevation~~ Lowest Floor, provided it is not part of the structural support of the Building and is designed so as to break away, under abnormally high tides or wave action, without damage to the structural integrity of the Building on which it is to be used. Solid, nonsupporting Breakaway Walls may also be used, but only for purposes of enclosing and securing access to upper Floors (foyer for staircase or elevator) and for secured storage and vehicle parking. The solid Breakaway Walls shall have a safe design loading resistance of not less than ten and not more than 20 pounds per square foot.

(9) *Use of enclosed areas.* If aesthetic open wood latticework or insect screening is utilized, such enclosed space shall ~~not be designed to be used for human habitation, but shall be designed to be used only for parking of vehicles, Building access, or limited storage of maintenance equipment used in connection with the premises.~~ Areas enclosed by solid Breakaway Walls shall be used for Building access, parking of vehicles, and secured limited storage only.

(10) *Plans for enclosures.* Prior to construction, plans for any Buildings that will have open wood latticework or ~~decorative~~ insect screening, or solid Breakaway Walls, must be submitted to the ~~Village Manager~~ Building Official for approval, and must comply with the standard noted in subsection (8) of this section. Certification by a registered architect or engineer is required for any Breakaway Wall designs which do not comply with such standard. Such designs must be certified to collapse as a result of a water load less than that which would occur during the Base Flood, and to not result in the displacement, collapse, or other structural damage to the rest of the Building and foundation system or to adjoining Structures. Water and wind loading values shall be those set forth in subsection (4) of this section.

(11) *Restriction on future enclosures.* Any alteration, repair, reconstruction or improvement to a Structure shall not enclose the space below the Lowest Floor, except as provided for in section 10-63(8) and (9).

(12) ~~*Manufactured Homes Recreational Vehicles.*~~ No ~~Manufactured Homes or Recreational Vehicles~~ may shall be placed in Coastal High Hazard Areas.

(13) *Certification of completed construction.* ~~Upon completion of the Structure~~ For all New Construction and or Substantial Improvements, a registered professional engineer or architect shall certify that the Building was constructed in compliance with the provisions contained in this section, including the approved, certified design specifications provided per subsection (5) of this section.

(14) *Accessory Structures.* Accessory Structures shall be allowed per subsection (5) of this section, subject to the following criteria:

- a. The Structure is located so as not to cause collapse, displacement, or other structural damage to adjacent ~~primary~~ Structures during a Base Flood event;
- b. The Structure is designed so as to not provide resistance to the combined effects of wave action and wind during a Base Flood event, and to break down into small enough pieces so that the resultant debris does not create a serious danger to adjacent ~~primary~~ Structures (the safe design loading of the walls shall be not less than ten and not more than 20 pounds per square foot); and
- c. The design of the Building is certified by a registered professional engineer or architect to comply with such standards.

~~(15) *Temporary Structures.* Temporary Structures shall be permitted per section 10-62(6)~~

(15) All New Construction and Substantial Improvements located seaward of the Florida Coastal Construction Control Line shall also meet the more restrictive elevation requirements established by the Florida Department of Environmental Protection and nonelevation design requirements of this article.

(16) Above-ground tanks shall not be permitted.

(17) *Concrete slabs used as parking pads, enclosure floors, landings, decks, walkways, patios and similar nonstructural uses.* Concrete slabs used as parking pads, enclosure floors, landings, decks, walkways, patios and similar nonstructural uses are permitted beneath or adjacent to Buildings and Structures provided that the concrete slabs are designed and constructed to be:

- a. Structurally independent of the foundation system of the Building or Structure;
- b. Frangible and not reinforced, so as to minimize debris during flooding that is capable of causing significant damage to any Structure; and
- c. Have a maximum slab thickness of not more than four (4) inches.

(18) *Decks and patios.* Decks and patios shall be located, designed, and constructed in compliance with the following requirements:

- a. A deck that is structurally attached to a Building or Structure shall have the bottom of the lowest horizontal structural member at or above the Base Flood Elevation and any supporting members that extend below the Base Flood Elevation shall comply with the foundation requirements that apply to the Building or Structure, which shall be designed to accommodate any increased loads resulting from the attached deck;
- b. A deck or patio that is located below the Base Flood Elevation shall be structurally independent from Buildings or Structures and their foundation

systems, and shall be designed and constructed either to remain intact and in place during Design Flood conditions or to break apart into small pieces to minimize debris during flooding that is capable of causing structural damage to adjacent Elevated Buildings or Structures;

- c. A deck or patio that has a vertical thickness of more than twelve (12) inches or that is constructed with more than the minimum amount of fill necessary for site drainage shall not be approved unless an analysis prepared by a qualified registered design professional demonstrates no harmful diversion of floodwaters or wave runup and wave reflection that would increase damage to adjacent Elevated Buildings or Structures; and
- d. A deck or patio that has a vertical thickness of twelve (12) inches or less and that is at natural grade or on nonstructural fill material that is similar to and compatible with local soils and is the minimum amount necessary for site drainage may be approved without requiring analysis of the impact on diversion of floodwaters or wave runup and wave reflection.

(19) Other Development. In Coastal High Hazard Areas, Development activities other than Buildings and Structures shall be permitted only if authorized by the appropriate state or local authority. Such Development activities shall be if located outside the footprint of, and not structurally attached to, Buildings or Structures, and shall be authorized only if analyses prepared by qualified registered design professionals demonstrate no harmful diversion of floodwaters or , wave runup and wave reflection that would increase damage to adjacent Elevated Buildings and Structures. Such other Development activities include but are not limited to:

- a. Bulkheads, seawalls, retaining walls, revetments, and similar erosion control Structures;
- b. Solid fences and privacy walls, and fences prone to trapping debris, unless designed and constructed to fail under Flood conditions less than the Design Flood or otherwise function to avoid obstruction of floodwaters.

Sec. 10-64. Standards for subdivision proposals.

- ~~(a) All subdivision proposals shall be consistent with the need to minimize Flood damage.~~
- ~~(b) All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize Flood damage.~~
- ~~(c) All subdivision proposals shall have adequate drainage provided to reduce exposure to Flood hazards.~~
- ~~(d) Base Flood Elevation and Flood hazard area mapping shall be provided in accordance with this article for subdivision proposals and other proposed Development which is greater than the lesser of 50 lots or five acres.~~

~~(e) The Base Flood boundary, Floodway and/or V-zone boundary if applicable, and the applicable Base Flood Elevation for the Building site on each lot, shall be clearly marked on all recorded subdivision plats, be they for Residential, commercial or industrial use.~~

Sec. 10-634. – Disposition of rainwater and liquid wastes.

Rainwater or other liquid wastes from any premises shall be disposed of where same originates or falls. The disposal of any rainwater or other liquid wastes by causing or allowing same to be disposed of or flow on or across any adjoining property or sidewalk, either public or private, shall be deemed a nuisance, and shall be corrected by properly disposing of same.

Section 5. Severability. The provisions of this Ordinance are declared to be severable and if any section, sentence, clause or phrase of this Ordinance shall for any reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses, and phrases of this Ordinance but they shall remain in effect, it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

Section 6. Conflicts. All ordinances or parts of ordinances, resolution or parts of resolutions, in conflict herewith, are repealed to the extent of such conflict.

Section 7. Effective Date. This Ordinance shall become effective immediately upon adoption on second reading

PASSED AND ADOPTED on first reading this 24th day of April, 2012.

PASSED AND ADOPTED on second reading this 8th day of May, 2012.

ATTEST:


CONCHITA H. ALVAREZ, MMC, VILLAGE CLERK

APPROVED AS TO FORM AND LEGAL SUFFICIENCY:


VILLAGE ATTORNEY


MAYOR FRANKLIN CAPLAN



MIAMI DAILY BUSINESS REVIEW

Published Daily except Saturday, Sunday and
Legal Holidays
Miami, Miami-Dade County, Florida

STATE OF FLORIDA COUNTY OF MIAMI-DADE:

Before the undersigned authority personally appeared V. PEREZ, who on oath says that he or she is the LEGAL CLERK, Legal Notices of the Miami Daily Business Review f/k/a Miami Review, a daily (except Saturday, Sunday and Legal Holidays) newspaper, published at Miami in Miami-Dade County, Florida; that the attached copy of advertisement, being a Legal Advertisement of Notice in the matter of

VILLAGE OF KEY BISCAYNE ORDINANCE AMENDING CHAPTER 10 - FLOODS

in the XXXX Court,
was published in said newspaper in the issues of

04/26/2012

Affiant further says that the said Miami Daily Business Review is a newspaper published at Miami in said Miami-Dade County, Florida and that the said newspaper has heretofore been continuously published in said Miami-Dade County, Florida, each day (except Saturday, Sunday and Legal Holidays) and has been entered as second class mail matter at the post office in Miami in said Miami-Dade County, Florida, for a period of one year next preceding the first publication of the attached copy of advertisement; and affiant further says that he or she has neither paid nor promised any person, firm or corporation any discount, rebate, commission or refund for the purpose of securing this advertisement for publication in the said newspaper.

V. Perez

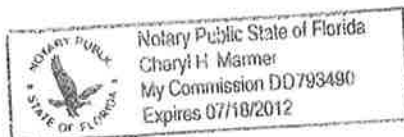
Sworn to and subscribed before me this

26 day of APRIL, A.D. 2012

Cheryl H. Mamer

(SEAL)

V. PEREZ personally known to me



VILLAGE OF KEY BISCAYNE

OFFICE OF THE VILLAGE CLERK

PUBLIC NOTICE

Notice is hereby given that the following ordinance will be considered on Second Reading by the Village Council of the Village of Key Biscayne at a meeting to be held on Tuesday, May 8, 2012 at 7:00 p.m., in the Council Chamber, located at 560 Crandon Boulevard, Key Biscayne, Florida:

AN ORDINANCE OF THE VILLAGE OF KEY BISCAYNE, FLORIDA, AMENDING CHAPTER 10 FLOODS" IN ORDER TO UPDATE THE FLOODPLAIN MANAGEMENT REGULATIONS; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS; AND PROVIDING FOR AN EFFECTIVE DATE.

The proposed Ordinance may be inspected by the public at the Office of the Village Clerk. Interested parties may appear at the Public Hearing and be heard with respect to the proposed Ordinance. Any person wishing to address the Village Council on any item at this Public Hearing is asked to register with the Village Clerk prior to that item being heard.

In accordance with the Americans With Disabilities Act of 1990, all persons who are disabled and who need special accommodations to participate in this proceeding because of that disability should contact the Office of the Village Clerk, 88 West McIntyre Street, Suite 220, Key Biscayne, Florida 33149, telephone number (305) 365-5506, not later than two business days prior to such proceeding.

Should any person desire to appeal any decision of the Village Council with respect to any matter to be considered at this meeting, that person shall insure that a verbatim record of the proceedings is made including all testimony and evidence upon which any appeal may be based (F.S. 286.0105).

Comments of any interested party relative to this matter may be submitted in writing and or presented in person at the public hearing.

Conchita H. Alvarez, MMC
Village Clerk

4/26

12-4-84/1875362M